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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,514	09/22/2003	Marius Hauri	010000165	5820
21395 LOUIS WOO LAW OFFICE OF LOUIS WOO 717 NORTH FAYETTE STREET ALEXANDRIA, VA 22314			EXAMINER WITCZAK, CATHERINE	
			ART UNIT 3767	PAPER NUMBER
			MAIL DATE 12/01/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/665,514

Applicant(s)

HAURI ET AL.

Examiner

CATHERINE N. WITCZAK

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-11, 13-21 and 23-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-6, 8-11, 13-21, 23-25 and 27-28 is/are rejected.
- 7) ☒ Claim(s) 7 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-2, 4, 9, 20-21, 23, & 28 are rejected under 35 U.S.C. 102(e) as being unpatentable over Crawford et al (US Pub. No. 2002/0161336A1) as modified by Hudon (US 7,156,825).

The Crawford reference discloses a safety apparatus in figures 1-14 comprising a needle hub 60 having a proximal portion and a distal portion, a needle 40 extending from a distal end of said needle hub; a collar 90 mounted directly on the distal portion of said needle hub, said collar having a first engage mechanism 97 at its inner circumferential surface; a housing 140 pivotally connected to said collar; and a needle sheath 50 having a proximal portion with a second engage mechanism 56 at its outer circumferential surface, said first and second engage mechanism fitted to each other when said sheath is fitted to said collar, said proximal portion having only one side in contact engagement to said collar for covering said needle extending from the distal end of said needle hub and said sheath is not in contact with said needle hub when said sheath is fitted to said collar and said first and second engage mechanism are engaged to each other.

With respect to claims 2 & 21, see figure 12.

With respect to claims 4 & 23, wherein second engage mechanism 56 comprises a groove and first engage mechanism 97 comprises a rib, see figures 2, 9, & 10.

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With respect to claims 9 & 28, wherein the collar has a lock mechanism 118 and wherein the housing has an other lock mechanism 194 for coacting to fixedly retain the housing.

Crawford et al disclose the claimed invention except for the collar being rotatably mounted on the needle hub. Hudon discloses in Figure 3 that it is known to use a collar which is rotatably mounted on a needle hub. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Crawford et al with a rotatably mounted collar as taught by Hudon since such a modification would make it easier to connect the collar and hub.

2. Claims 8 & 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crawford et al (US Pub. No. 2002/0161336A1) as modified by Hudon as applied to claims 1 & 20 and further in view of Landis (US Patent No. 5490841). The Crawford reference as modified by Hudon discloses the claimed invention except for the overlapping housing lips with off-centered opening. Landis teaches the use of overlapping housing lips with off-centered opening in figures 9A-B & 11. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the teachings of Landis in the apparatus and method of Crawford as modified by Hudon in order to easily entrap the needle with the housing.

3. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crawford et al (US Pub. No. 2002/0161336A1) as modified by Hudon as applied to claims 1 & 20 and further in view of Gyure (US Patent No. 5669889). The Crawford reference as modified by Hudon discloses the claimed invention except for lock mechanisms on the collar and housing utilizing an aperture. The Gyure reference teaches lock mechanisms on the collar and housing to matingly couple to retain the housing to the collar (61,57, figure 3). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use the teachings of Gyure in the apparatus of Crawford as modified by Hudon in order to provide a lock mechanism for one-way safety locking to prevent re-exposure of the needle after covering.

4. Claims 5 & 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crawford et al (US Pub. No. 2002/0161336A1) as modified by Hudon as applied to claims 1 & 20 and further in view of Johnson (US Pub. No. 2002/0010433). The Crawford reference as modified by Hudon discloses the claimed invention except for a ring spaced around the hub end for a user to grasp. The Johnson reference teaches a ring spaced around a hub end for a user to grasp (figures 2a-c). Therefore it would be obvious to one of ordinary skill in the art at the time of the invention to use the teachings of Johnson in the apparatus and method of Crawford as modified by Hudon in order to facilitate connection of the hub and barrel.

5. Claims 6 & 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crawford et al (US Pub. No. 2002/0161336A1) as modified by Hudon as applied to claims 1 & 20 and further in view of Pressly, Sr. et al (US Patent No. 7014622 B1). Now even though Crawford as modified by Hudon does not explicitly disclose a window attention is directed to Pressly. The Pressly, Sr. et al reference teaches the use of a window as a transparent ring on a needle assembly for viewing a joint of the needle hub, see figure 10 and col. 7 lines 35-43, wherein the transparency would be deemed a window. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to modify the device of Crawford as modified by Hudon in view of Pressly in order to provide a window via a transparent ring in order to see if the device has been properly connected.

6. Claims 11, 13-17, & 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al (US Pub. No. 200210010433) in view of Crawford et al (US Pub. No. 2002/0161336A1) as modified by Hudon and further in view of Pressly, Sr. et al (US Patent No. 7014622 B1). The Johnson reference discloses a needle hub with a luer connector 68 and a ring 42 graspable by a user to remove the needle hub from a syringe surrounding, in a spaced relation, to the luer connector, see figures 2A-F. Now even

though Johnson does not explicitly disclose a collar and a needle sheath attention is directed to Crawford as modified by Hudon. The Crawford reference teaches a needle hub 60 having a luer connector and a needle 40 on the distal end of the hub; a collar 90 having a housing 140 pivotally connected thereto directly fitted to and rotatable about said distal portion of the needle hub, and a needle sheath 50 having a proximal portion with only one side in contact engagement to said collar, said needle sheath not in contact with said needle hub and removable from said collar to expose said needle for use. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to modify the device of Johnson with the teachings of Crawford as modified by Hudon in order to provide a shielding apparatus to help prevent accidental punctures by the needle. Now even though Johnson does not explicitly disclose a window in the ring, attention is directed to Pressly, Sr. et al. The Pressly, Sr. et al reference teaches the use of a window as a transparent ring on a needle assembly for viewing a joint of the needle hub, see figure 10 and col. 7 lines 35- 43, wherein the transparency would be deemed a window. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to modify the device of Johnson in view of Pressly in order to provide a window via a transparent ring in order to see if the device has been properly connected. Also see rejection above with respect to Crawford as modified by Hudon.

7. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al (US Pub. No. 2002/0010433) in view of Crawford et al (US Pub. No. 2002/0161336A1) as modified by Hudon in view of Pressly, Sr. et al (US Patent No. 7014622 B1) as applied to claim 11 and further in view of Landis (US Patent No. 5490841). The Johnson in view of Crawford as modified by Hudon reference discloses the claimed invention except for the overlapping housing lips with off-centered opening. Landis teaches the use of overlapping housing lips with off-centered opening in figures 9A-B & 11. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the teachings of Landis in the apparatus in order to easily entrap the needle with the housing.

Allowable Subject Matter

Claims 7 & 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHERINE N. WITCZAK whose telephone number is (571)272-7179. The examiner can normally be reached on Monday through Friday, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Catherine N Witczak/
Examiner, Art Unit 3767

In view of the Appeal Brief filed on 5/20/2008, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection is set forth above.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Kevin C. Sirmons/

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Supervisory Patent Examiner, Art Unit 3767.